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8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA
10

11
12 In the Matter of) FPPC No. 12/106
13)
14 CALIFORNIA TAXPAYER PROTECTION) STIPULATION, DECISION and
COMMITTEE, and THOMAS N. HUDSON,) ORDER
15 TREASURER,)
16 Respondents.)

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18 Complainant, the Fair Political Practices Commission, and respondents California Taxpayer
19 Protection Committee and Thomas N. Hudson (collectively "Respondents") agree that this Stipulation
20 will be submitted for consideration by the Fair Political Practices Commission at its next regularly
21 scheduled meeting.

22 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in this
23 matter and to reach a final disposition without the necessity of holding an administrative hearing to
24 determine the liability of Respondent, pursuant to Section 83116 of the Government Code.

25 Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural
26 rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in Sections 18361.1
27 through 18361.9 of Title 2 of the California Code of Regulations. This includes, but is not limited to,
28 the right to personally appear at any administrative hearing held in this matter, to be represented by an

1 attorney at the respondent's own expense, to confront and cross-examine all witnesses testifying at the
2 hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge
3 preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

4 It is further stipulated and agreed that Respondents failed to timely report subvendor information,
5 in violation of Government Code sections 84211, subdivision (k), and 84303 (1 count), and failed to
6 timely report late independent expenditures, in violation of Government Code section 84204,
7 subdivision (c) (1 count).

8 All counts are described in Exhibit 1, which is attached hereto and incorporated by reference as
9 though fully set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

10 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
11 Respondents also agree to the Commission imposing upon them an administrative penalty in the amount
12 of \$5,500. A cashier's check from Respondents in said amount, made payable to the "General Fund of
13 the State of California," is submitted with this Stipulation as full payment of the administrative penalty,
14 to be held by the State of California until the Commission issues its decision and order regarding this
15 matter. The parties agree that in the event the Commission refuses to accept this Stipulation, it shall
16 become null and void, and within fifteen business days after the Commission meeting at which the
17 Stipulation is rejected, all payments tendered by Respondents in connection with this Stipulation shall be
18 reimbursed to Respondents. Respondents further stipulate and agree that in the event the Commission
19 rejects the Stipulation, and a full evidentiary hearing before the Commission becomes necessary, neither
20 any member of the Commission, nor the Chief of Enforcement, shall be disqualified because of prior
21 consideration of this Stipulation.

22 Dated: _____
23 Gary Winuk, Enforcement Chief,
24 On behalf of Fair Political Practices Commission

25 Dated: _____
26 Thomas N. Hudson, Respondent
27 Individually and on behalf of
28 Respondent California Taxpayer Protection Committee

DECISION AND ORDER

The foregoing Stipulation of the parties “In the Matter of California Taxpayer Protection Committee and Thomas N. Hudson, Treasurer” FPPC No. 12/106, including all attached exhibits, is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution below by the Chair.

IT IS SO ORDERED.

Dated: _____

Ann Ravel, Chair
Fair Political Practices Commission

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EXHIBIT 1

INTRODUCTION

Respondent California Taxpayer Protection Committee (“Respondent Committee”) is a state general purpose committee. At all relevant times, Respondent Thomas N. Hudson (“Respondent Hudson”) served as treasurer of Respondent Committee. As a general purpose committee under the Political Reform Act¹ (the Act”), Respondent Committee and Respondent Hudson (collectively “Respondents”) have a duty to timely and accurately disclose contributions received and expenditures made.

This case arose from the Franchise Tax Board’s (“FTB”) audits of Respondent Committee for the January 1, 2007, through December 31, 2008, period. The FTB audit and subsequent investigation by the Fair Political Practices Commission’s (the “Commission”) Enforcement Division (the “Enforcement Division”) revealed that Respondents failed to timely disclose late independent expenditures to local filing officers and information regarding subvendors, as required by the Act.

For the purposes of this Stipulation, Respondents’ violations of the Act are stated as follows:

COUNT 1: Respondent California Taxpayer Protection Committee, a state general purpose committee, and its treasurer Respondent Thomas N. Hudson failed to timely report subvendor information for payments, totaling \$252,635.63, made during the reporting periods ending June 30, September 30, and December 31, 2008, in violation of Government Code sections 84211, subdivision (k), and 84303.

COUNT 2: Respondent California Taxpayer Protection Committee, a state general purpose committee, and its treasurer Respondent Thomas N. Hudson failed to report twelve late independent expenditures, totaling \$85,194.85, to oppose or support local candidates and measures in the June 3 and November 4, 2008, elections, to the local filing officer within 24 hours, in violation of Government Code section 84204, subdivision (c).

SUMMARY OF THE LAW

All statutory references and discussions of law pertain to the Act’s provisions as they existed at the time of the violations.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Liberal Construction and Vigorous Enforcement of the Political Reform Act

When the Act was enacted, the people of the state of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities. (Section 81001, subd. (h).) To that end, Section 81003 requires that the Act be liberally construed to achieve its purposes.

One of the purposes of the Act is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited. (Section 81002, subd. (a).) Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.” (Section 81002, subd. (f).)

Duty to File Campaign Statements

Section 82013, subdivision (a), includes within the definition of “committee” any person or combination of persons who receives contributions of \$1,000 or more during a calendar year. This type of committee is commonly referred to as a “recipient committee.”

Under the Act, there are different kinds of recipient committees, defined by the type of election activity in which they engage. A recipient committee that is formed or exists primarily to support or oppose candidates or measures voted on in a state election, or in more than one county, is defined, at Section 82027.5, subdivision (b), as a “state general purpose committee.”

Every recipient committee is required to file semiannual statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31. (Section 84200, subd. (a).)

Every recipient committee must also file a preelection statement for each period in which it makes contributions or independent expenditures totaling \$500 or more. (Section 84200.5, subd. (i).) For the period ending September 30, a preelection statement must be filed no later than October 5.² (Section 84200.7, subd. (b)(1).) Subsequently, another preelection statement for the reporting period ending 17 days before the November election must be filed no later than 12 days before the election. (Section 84200.7, subd. (b)(2).)

In 2008, a state general purpose committee was required to file an original and a copy of all required campaign statements with the Secretary of State, a copy with the Registrar-Recorder of Los Angeles County, and a copy with the Registrar of Voters of the City and County of San Francisco. (Section 84215, subd. (a).)

² Under Regulation 18116, whenever the Act requires that a statement or report (other than late contribution reports required by Section 84203, late independent expenditure reports required by Section 84204, or notice by the contributor of a late in-kind contribution required by Section 84203.3) be filed prior to or not later than a specified date or during or within a specified period, and the deadline falls on a Saturday, Sunday or official state holiday, the filing deadline for such a statement or report shall be extended to the next regular business day.

Required Reporting of Expenditures

Section 82025 defines “expenditure” as a payment, forgiveness of a loan, payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. “An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.” (Section 82025.)

Section 84211, subdivisions (b) and (i), require committees to disclose on each campaign statement: (1) the total amount of expenditures made during the period covered by the campaign statement; and (2) the total amount of expenditures made during the period covered by the campaign statement to persons who have received \$100 or more.

Pursuant to Section 84211, subdivision (k), for each person to whom an expenditure of \$100 or more has been made during the period covered by the campaign statement, the following information must be disclosed on the campaign statement: (1) the recipient’s full name; (2) the recipient’s street address; (3) the amount of each expenditure; and (4) the description of the consideration for which each expenditure was made.

Required Reporting of Subvendor Information

Also, Section 84303 provides that no expenditure of \$500 or more shall be made, other than for overhead and normal operating expenses, by an agent or independent contractor, including, but not limited to, an advertising agency, on behalf of, or for the benefit of, any committee, unless the expenditure is reported by the committee as if the expenditure were made directly by the committee. This type of information reported by a committee is commonly referred to as “subvendor information.” Regulation 18431, subdivision (a), provides that expenditures of the type that must be reported pursuant to section 84303 include:

1. Expenditures for expert advice, expert analysis, or campaign management services, including but not limited to analysis, advice, or management services in connection with:
 - a. development of campaign strategy;
 - b. campaign management;
 - c. design or management of campaign literature or advertising;
 - d. campaign fund raising;
2. Expenditure for product or services which show how the campaign is conducted, including but not limited to expenditures for:
 - a. printed campaign literature;
 - b. advertising time or space;
 - c. campaign buttons and other campaign paraphernalia;
 - d. surveys, polls, signature gathering and door-to-door solicitation of voters;
 - e. facilities, invitations, or entertainment for fundraising events;
 - f. postage for campaign mailings; and

3. Expenditures to printers of mass mailings.

Section 84211, subdivision (k)(6), requires the disclosure of such subvendor information as part of the contents of any campaign statement required to be filed by the committee. Specifically, the following information must be provided: (1) the subvendor's full name; (2) his or her street address; (3) the amount of each expenditure; and (4) a brief description of the consideration for which each expenditure was made. (Section 84211, subs. (k)(1)-(4) and (6).)

Duty to Report Late Independent Expenditures

Section 82031 defines an "independent expenditure" as an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole an in context, unambiguously urges a particular result in an election, but which is not made to or at the behest of the affected candidate or committee.

A committee that makes an independent expenditures of \$1,000 or more to support or oppose a candidate or ballot measure during the 16 days immediately prior to the election in which the candidate or ballot measure is being voted upon, must report the expenditure by filing a late independent expenditure report within 24 hours of making the expenditure. (Sections 82036.5, 84200.7, 84200.8, and 84204, subd. (a).)

A committee that makes a late independent expenditure must file a late independent expenditure in the place where it would be required to file campaign statements under this article as if it were formed or existing primarily to support or oppose the candidate or measurer for or against which it is making the late independent expenditure. (Section 84204, subd. (c).)

A committee that is formed or exists primarily to support or oppose a candidate or measure to be voted upon in one city is required to file campaign statements with the clerk of the city. (Section 84215, subd. (d).) Therefore a committee that makes a late independent expenditure to support or oppose a candidate being voted upon in a city must file a late independent expenditure report with the city clerk.

Treasurer Liability

As provided in Section 84100, every committee shall have a treasurer. Under Section 84100 and Regulation 18427, subdivision (a), it is the duty of a committee's treasurer to ensure that the committee complies with all the requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds. Under Section 8311.65 and 91006, a committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee.

SUMMARY OF THE FACTS

At all relevant times, Respondent Committee was a state general purpose committee and Respondent Hudson was Respondent Committee's treasurer.

On June 30, 2008, Respondents filed a semiannual statement with the Secretary of State that reported \$153,385.39 in expenditures made and no subvendor information for the May 18 through June 30, 2008, reporting period.

On September 25, 2008, Respondents filed a preelection statement with the Secretary of State that reported \$161,281.43 in expenditures made and no subvendor information for the July 1 through September 30, 2008, reporting period.

On February 1, 2009, Respondents filed a semiannual statement with the Secretary of State that reported \$160,858.53 in expenditures made and no subvendor information for the October 19 through December 31, 2008, reporting period.

COUNT 1

Failure to Timely Report Subvendor Information

As a recipient committee and its treasurer, Respondents had a duty to report on their campaign statements subvendor information for any expenditures of \$500 or more made on Respondent Committee's behalf by Respondent Committee's agents and independent contractors.

During the May 18 through June 30, 2008, reporting period, \$66,691.99 in payments of \$500 or more were made on behalf of Respondent Committee by Respondent Committee's agents and independent contractors. Respondents failed to report, by July 31, 2008, subvendor information for any of the payments of \$500 or more made on behalf of Respondent Committee by Respondent Committee's agents and independent contractors during the May 18 through June 30, 2008, reporting period, in violation of Sections 84211, subdivision (k), and 84303.

During the July 1 through September 30, 2008, reporting period, \$146,444.25 in payments of \$500 or more were made on behalf of Respondent Committee by Respondent Committee's agents and independent contractors. Respondents failed to report, by October 5, 2008, subvendor information for any of the payment of \$500 or more made on behalf of Respondent Committee by Respondent Committee's agents and independent contractors during the July 1 through September 30, 2008, reporting period, in violation of Sections 84211, subdivision (k), and 84303.

During the October 19 through December 31, 2008, reporting period, \$39,499.39 in payments of \$500 or more were made on behalf of Respondent Committee by Respondent Committee's agents and independent contractors. Respondents failed to report, by January 31, 2009, subvendor information for any of the payments of \$500 or more made on behalf of Respondent Committee by Respondent Committee's agents and independent contractors during the October 19 through December 31, 2008, reporting period, in violation of Sections 84211, subdivision (k), and 84303.

COUNT 2
Failure to Timely Report Late Independent Expenditures

As a recipient committee and its treasurer, Respondents had a duty to report any late independent expenditure Respondent Committee made towards a local election to the local filing officer within 24 hours of making the late independent expenditure.

Respondents reported each of the following twelve late independent expenditures Respondent Committee made, totaling \$85,194.85, to the Secretary of State, but not to the respective local filing officer, within 24 hours:

Date	Candidate	Election	Position	Cost
May 19, 2008	Frank Sieferman	Woodland City Council	Support	\$1,058.35
May 27, 2008	Frank Sieferman	Woodland City Council	Support	\$3,900.29
May 30, 2008	Louis Boitano	Amador County Supervisor	Oppose	\$4,461.32
May 30, 2008	Frank Sieferman	Woodland City Council	Support	\$4,957.85
October 20, 2008	Measure L	Tustin Unified School Facilities Improvement District	Oppose	\$13,203.98
October 25, 2008	Kristy Sayles	Mayor of Lathrop	Oppose	\$2,414.36
October 27, 2008	Don Robinson and John Machisic	City of Banning Council Member	Support	\$10,545.30
October 27, 2008	Chris Hyland	City of Lake Elsinore Council Member	Oppose	\$2,736.93
October 31, 2008	Ken Maddox, Mike Winsten, Sue Palazzo, and Jack Brick	Capistrano Unified School District Trustee	Support	\$22,963.64
October 31, 2008	Larry D. Urdahl	Grossmont Union High School District Board Member	Oppose	\$10,700.00
October 31, 2008	Chris Cabaldon	Mayor of West Sacramento	Oppose	\$5,997.49
October 31, 2008	Kristy Sayles	Mayor of Lathrop	Oppose	\$2,255.34

By failing to report each late independent expenditure made to support or oppose a local candidate or measurer to the local filing officer within 24 hours of making the late independent expenditure, Respondents violated Sections 84211, subdivision (k), and 84303.

CONCLUSION

This matter consists of two counts of violating the Act, which carry a maximum administrative penalty of \$5,000 per count for a total of \$10,000.

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6): the seriousness of the violations;

the presence or lack of intent to deceive the voting public; whether the violation was deliberate, negligent, or inadvertent; whether the respondent(s) demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether upon learning of the violation the respondent voluntarily filed amendments to provide full disclosure. The facts are required to be considered by the Commission under Regulation 18361.5.

Count 1: Failing to timely and accurately report expenditures is a serious violation of the Act as it deprives the public of important information about a committee's financial activities.

Recent fines approved by the Commission for failing to timely disclose subvendor information include:

In the Matter of Shannon Grove, Shannon Grove for Assembly 2010, and Karen Cain, FPPC No. 10/1098. In December of 2012, the Commission fined a committee \$2,250 for failing to timely report subvendor information for payments totaling \$229,374. The respondents cooperated with the investigation and agreed to an early resolution.

In the Matter of Stuart Waldman, Friends of Stuart Waldman, and Kinde Durkee, FPPC No. 10/643. In September of 2011, the Commission fined a committee \$2,500 for failing to timely report subvendor information for payments totaling \$173,013. The respondents were cooperative in the investigation and agreed to an early resolution.

In Count 1, Respondents failed to disclose subvendor information for payments totaling \$252,635.63, which accounted for all subvendor information Respondents were required to report during the three reporting periods. However, Respondents do not have a history of enforcement actions and this violation stems from the first audit ever performed of Respondent Committee's campaign activities by the FTB. Respondents cooperated in the Enforcement Division's investigation of this matter, and agreed to an early resolution. Additionally, there is no evidence to suggest that the violation was intentional. According to Respondent Hudson, the violation was due his misunderstanding of the law. Therefore a \$2,500 fine for Count 1 is recommended.

Count 2: Failing to timely report late independent expenditures is a serious violation of the Act as it deprives the public of important information about a committee's financial activities.

Recent fines approved by the Commission for failing to timely report late independent expenditures include:

In the Matter of Colton Police Officers Association, FPPC No. 10/1026. In December 2012, the Commission approved a fine of \$2,500 for a committee's failure to timely report four late independent expenditures, totaling \$14,392. The respondents had no history of violating the Act and cooperation with the investigation.

In the Matter of Concerned Citizens for a Better West Covina and Dana Sykes, FPPC No. 09/832. In September 2010, the Commission approved a fine of \$2,000 for a committee's failure to timely report a late independent expenditure totaling \$2,285.81. The respondents had no history of violating the Act and agreed to an early resolution of the matter.

In Count 2, Respondents failed to timely report twelve late independent expenditures,

totaling \$85,194.22, to the local filing officer. However, all twelve late independent expenditures were timely reported to the Secretary of State and therefore all the pertinent information was available to the public.

Additionally, Respondents have no history of enforcement actions, cooperated with the Enforcement Division's investigation of this matter, and there is no evidence that the violation was intentional. According to Respondent Hudson, he believed that he fulfilled the filing requirements by filing all the reports online with the Secretary of State, and he was not aware that he was also required to file these reports with the local filing officer. Therefore a \$3,000 fine for Count 2 is recommended.

PROPOSED PENALTY

Accordingly, the imposition of a total administrative fine of \$5,500 is recommended.

* * * * *